

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

6/28/90 E 8
133234 6/28/90

ELIZABETH DOLE,
Secretary of Labor,
United States Department
of Labor,

Plaintiff,

v.

MASTER METALS, INC.,

Defendant.

CIVIL ACTION NO. 1:90CV1010

JUDGE JOHN M. MANOS

FILED
JUN 28 1990
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND, OHIO

CONSENT DECREE OF PRELIMINARY INJUNCTION

WHEREAS, plaintiff, Elizabeth Dole, Secretary of Labor, United States Department of Labor, filed her Complaint and Motion for Preliminary Injunction in this action against defendant, Master Metals, Inc., pursuant to the provisions of Section 13 of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, et seq. (the "OSH Act" or the "Act") and Rule 65 of the Federal Rules of Civil Procedure to restrain certain conditions existing in a place of employment maintained by defendant Master Metals, Inc. at 2850 West Third Street, Cleveland, Ohio;

WHEREAS, this Court on June 1, 1990, granted a temporary restraining order under 29 U.S.C. § 662, restraining defendant from failing to comply with the medical removal provisions of 29 C.F.R. 29 § 1910.1025, pending resolution by the Court of plaintiff's Complaint and Motion for Preliminary Injunction;

WHEREAS, the parties have appeared and consent to the entry of this decree;

It Is hereby ORDERED, ADJUDGED and DECREED that:

1. The Court has jurisdiction over the subject matter

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and over the parties to this action pursuant to 29 U.S.C. § 662(a) of the Act.

2. The complaint for preliminary injunction states a cause of action against defendant, 29 U.S.C. § 651, et seq. of the Act.

3. Defendant at its place of employment located at 2850 West Third Street, Cleveland, Ohio, is exposing its employees to health hazards which are in violation of 29 U.S.C. § 651, et seq. of the Act.

4. Said hazardous conditions consist of employees of defendant working in an environment where lead exposures exceed the action level specified in 29 C.F.R. § 1910.1025(b) and the blood lead levels for said employees are at such levels, as specified in 29 C.F.R. § 1910.1025(k)(1)(i)(C) or (D), that they are required to be removed from exposure to lead in accordance with the applicable provisions of that standard and provided medical removal protection benefits as defined therein.

5. Defendant, its officers, agents, servants, employees and all persons in an active concert or participation with them hereby are enjoined and restrained from violating the provisions of the Act and 29 C.F.R. § 1910.1025 in any of the following manners:

(a) Defendant shall immediately abate the hazardous conditions referred to in paragraph 4 by removing employees whose blood lead levels exceed the limits specified for removal in 29 C.F.R. § 1910.1025(k)(1)(i)(C) or (D), in the manner required by the standard.

(b) Defendant shall provide medical removal protection benefits to said employees as required by 29 C.F.R. § 1910.1025(k)(2),

including, without limitation, average overtime compensation.

(c) Defendant shall permit duly authorized representatives of the Occupational Health and Safety Administration ("OSHA") to make inspections at any reasonable time of defendant's premises and assure defendant has complied with this order. During the course of any OSHA inspection, OSHA representatives are authorized to review employee medical and daily employee attendance records, interview employees on the premises, conduct air monitoring and sampling and otherwise assure compliance with this order. Such inspections shall be authorized upon presentation of a copy of this order and appropriate credentials.

(d) Defendant shall provide a copy of this order and the OSHA lead regulations, as contained at 29 C.F.R. § 1910.1025, upon the entry of this order by the Court to all individuals who may be affected thereby, including employees, union representatives and vendors, and shall prominently post copies of this order in or near defendant's premises, wherein such posting will most effectively prevent exposure to such hazardous conditions.

(e) Defendant shall notify the Cleveland Office of OSHA at least 10 calendar days prior to reorganization, dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporate structure of Master Metals, Inc., that may affect compliance obligations arising out of this order.

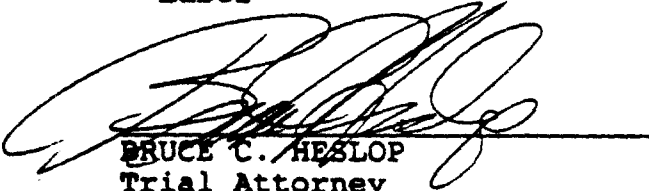
6. Pursuant to section 13(b) of the Act, 29 U.S.C. § 662(b), plaintiff shall notify the Court and defendant when


enforcement proceedings otherwise provided for in the Act have reached a conclusion and this injunction shall terminate.

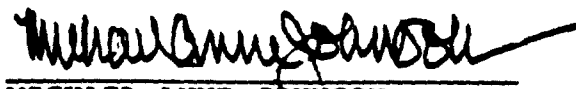
7. The jurisdiction of this Court is retained for the purpose of enforcing or modifying this order and for the purpose of granting such additional relief as may hereafter appear necessary or appropriate.

8. Plaintiff and defendant shall attempt informal resolution of any dispute that may arise under this consent order prior to petitioning this Court for further relief.

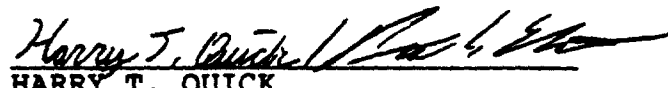
For the Plaintiff
Elizabeth Dole, Secretary of
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DOUGLAS K. MICKEY
President, Master Metals, Inc.

IT IS SO ORDERED.


JOHN M. MANOS
UNITED STATES DISTRICT JUDGE